

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Vincent J. Boseman,

PETITIONER

v.

Tonya James, Warden, Kershaw County
Correctional Institution,¹

RESPONDENT

Case No. 0:23-cv-00881-TLW

ORDER

Petitioner Vincent J. Boseman, proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. The matter now comes before the Court for review of the Report and Recommendation (“Report”) filed by United States Magistrate Judge Paige J. Gossett, to whom this case was assigned. ECF No. 12. In the Report, the magistrate judge recommends that the petition be summarily dismissed as a successive § 2254 petition. *Id.* at 2. Petitioner has not filed objections. This matter is now ripe for decision.

The Court is charged with conducting a *de novo* review of any portion of the Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that Report. 28 U.S.C. § 636. In the absence of objections to the Report, the Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). In such a case, “a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of

¹ Petitioner originally named “Tanya James.” The Court has corrected the caption to reflect both the correct spelling of Warden James’ name and her title.

the record in order to accept the recommendation.” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

The Court has carefully reviewed the Report. As noted, Petitioner has not filed objections to the Report. Based on the Court’s review of the filings, along with the records from the two prior § 2254 actions filed by Petitioner, the Court agrees with the magistrate judge that the instant § 2254 petition is successive. *See Boseman v. Wilson*, No. 2:11-cv-03265; *Boseman v. Warden*, No. 0:22-cv-04510. The Court has reviewed Petitioner’s first § 2254 petition, which was addressed on the merits, in detail. In that case, then-United States Magistrate Judge Bruce Howe Hendricks issues a detailed Report and Recommendation, which evaluated Petitioner’s three claims of ineffective assistance of counsel in accordance with *Strickland v. Washington*, 466 U.S. 688 (1984). *Boseman v. Wilson*, No. 2:11-cv-03265, No. 27. Judge Hendricks, after considering the merits of the petition, recommended granting the State’s motion for summary judgment. *Id.* After considering Petitioner’s objections to Judge Hendrick’s report, the Court adopted it and dismissed the petition. *Id.* No. 32.

“Before a second or successive [§ 2254] application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(a)(3)(A). Petitioner has not received permission from the United States Court of Appeals for the Fourth Circuit to this third, successive petition. *See*

In re Vial, 115 F.3d 1192, 1194 (4th Cir. 1997) (“[A]n individual may not file a second or successive § 2254 petition for a writ of habeas corpus or § 2255 motion to vacate sentence without first receiving permission to do so from the appropriate circuit court of appeals.”); *see also* 28 U.S.C. § 2244(b). The petition is therefore improperly successive. Accordingly, for the reasons stated by the magistrate judge, the Report, ECF No. 12 is **ACCEPTED**. This action is hereby **DISMISSED**.

Finally, the Court notes that Petitioner has filed a letter with the Court requesting that the Court provide him with the forms necessary to seek permission from the Fourth Circuit to file a successive § 2254 petition. ECF No. 16. The Court has attached the requested form to this order.

CERTIFICATE OF APPEALABILITY

To the extent a certificate of appealability is required, the Court has reviewed this petition in accordance with Rule 11 of the Rules Governing § 2254 Proceedings and 28 U.S.C § 2253. The Court concludes that it is not appropriate to issue a certificate of appealability as to the issues raised herein. Petitioner is advised that he may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Senior United States District Judge

June 1, 2023
Columbia, South Carolina